

LAND SURVEYORS SECTION MEETING

MINUTES

The Land Surveyors Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on February 11, 2003, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present

Doyle B Allen
John M Elkin, Jr
John R McAden

Staff present for all or part of the meeting were

Karen W O'Neal, Deputy Director of Regulatory Programs
Marian H Brooks, Regulatory Board Administrator
Trisha L Henshaw, Administrative Assistant
Bonnie Rhea Adams, Assistant Director for Post-Adjudication
Susan A Garbini, Legal Assistant
Sharon M Sweet, Examinations Administrator

No representative of the Office of the Attorney General was present for the meeting

Mr Allen, Chair, called the meeting to order at 9 00 a m

Call to Order

Mr Elkin moved at approve the agenda as written Mr McAden seconded the motion which was unanimously approved by members Allen, Elkin, and McAden

**Approval of
Agenda**

Mr Elkin moved to approve the minutes from the November 14, 2002, Section meeting as written Mr McAden seconded the motion which was unanimously approved by members Allen, Elkin, and McAden

Approval of Minutes

Mr McAden moved to approve the minutes from the January 16, 2003, Examination Workshop as amended Mr Elkin seconded the motion which was unanimously approved by members Allen, Elkin, and McAden

Public Comment Period - No public comments were made to the Section members

**Public Comment
Period**

No respondent, counsel for respondent or other representative, or participant without an appointment was present to speak before the Section

Call for Respondent

In reference to File Number 2003-01510, Brian L. Dresen, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and discussion, Mr. Allen moved to recommend to the Board to accept the Dresen's application for a Land Surveyor License by Examination, however, the experience submitted at the Informal Fact-Finding Conference shall be reviewed by a member of the Land Surveyors Section through the standard application review process, which, if approved by the other member, would grant Mr. Dresen an additional ten months of experience credit, leaving Mr. Dresen five months short of the total experience requirements. Mr. McAden seconded the motion which was unanimously approved by members Allen and McAden. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Elkin was not present during the discussion or vote.

Regarding File Number 2003-01511, Shawn D. Swisher, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and discussion, Mr. McAden moved to recommend to the Board to accept the summary and recommendation of the presiding Board member. After Mr. Swisher's application for a Land Surveyor license by examination at this time because he only has 1 year and 8 months of qualifying experience of the required four years. Mr. Swisher may perfect his application by submitting an additional 2 years and 4 months of qualifying experience. Mr. McAden further moved to amend the title page of the transcript to include the correct Board name. Mr. Elkin seconded the motion which was unanimously approved by members Elkin and McAden. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Allen was not present during the discussion or vote.

Regarding File Number 2003-01511, Shawn D. Swisher, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and discussion, Mr. McAden moved to recommend to the Board to accept the summary and recommendation of the presiding Board member. After Mr. Swisher's application for a Land Surveyor license by examination at this time because he only has 1 year and 8 months of qualifying experience of the required four years. Mr. Swisher may perfect his application by submitting an additional 2 years and 4 months of qualifying experience. Mr. McAden further moved to amend the title page of the transcript to include the correct Board name. Mr. Elkin seconded the motion which was unanimously approved by members Elkin and McAden. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Allen was not present during the discussion or vote.

Regarding File Number 2003-00526, Micah T. Crowder, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and discussion, Mr. McAden moved to recommend to the Board to accept the summary and recommendation of the presiding Board member. After Mr. Crowder's application for a Land Surveyor-In-Training designation at this time as he only has 1 year and 10 months of qualifying experience out of the required 8 years. Mr. McAden further moved to amend the title

Regarding File Number 2003-00526, Micah T. Crowder, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and discussion, Mr. McAden moved to recommend to the Board to accept the summary and recommendation of the presiding Board member. After Mr. Crowder's application for a Land Surveyor-In-Training designation at this time as he only has 1 year and 10 months of qualifying experience out of the required 8 years. Mr. McAden further moved to amend the title

File Number 2003-
01510, Brian L.
Dresen

File Number 2003-
01511, Shawn D.
Swisher

File Number 2003-
00526, Micah T.
Crowder

page of the transcript to include the correct Board name Mr. Elkin seconded the motion which was unanimously approved by members Elkin and McAden. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Allen was not present during the discussion or vote

Concerning File Number 2001-00673, Donnie Walker, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcript and exhibits, and summary and recommendation of the presiding Board member. After discussion, Mr. McAden moved to recommend to the Board to accept the facts of the summary and amend the recommendations as follows

Count I: Mr. Walker's failure to perform the proper research in the production of the survey plats of the William H. Halsey property is a violation of 18 VAC 10-20-370 A of the Board's 1999 regulations. A monetary penalty of \$250 is recommended for this violation

Count II: Mr. Walker's failure to perform the required minimum field procedures in the production of the survey plats of the William H. Halsey property is a violation of 18 VAC 10-20-370 B 3 of the Board's 1999 regulations. A monetary penalty of \$250 is recommended for this violation

Count III: Mr. Walker's failure to perform the required office procedures involving computations to arrive at closure in the production of the survey plats of the William H. Halsey property is a violation of 18 VAC 10-20-370 C 1 of the Board's 1999 regulations. A monetary penalty of \$250 is recommended for this violation

Count IV: Mr. Walker's failure to include the names of owners of record and the deed book reference where the acquisition was recorded in the production of the survey plats of the William H. Halsey property is a violation of 18 VAC 10-20-370 C 2 b of the Board's 1999 regulations. A monetary penalty of \$250 is recommended for this violation

Count V: Mr. Walker's failure to include the names of all adjoining owners of record with deed references, or subdivision lot designations, widths of right-of-way, and/or distance to the center of the physical pavement and pavement width, and streams, adjoining or running through the land, in the production of the survey plats of William H. Halsey is a violation of 18 VAC 10-20-370 C 2 d of the Board's 1999 regulations. A monetary penalty of \$250 is recommended for this

violation

Count VI: Mr Walker's failure to include the north arrow and source of meridian in the production of the survey plats of the William H Halsey property is a violation of 18 VAC 10-20-370 C 2 i of the Board's 1999 regulations A monetary penalty of \$250 is recommended for this violation

Count VII: Mr Walker's failure to include the reference bearing and distance to a property corner of an adjoining owner or other prominent object in the production of the survey plats of the William H Halsey property is a violation of 18 VAC 10-20-370 C 2 j of the Board's 1999 regulations A monetary penalty of \$250 is recommended for this violation

Count VIII: Mr Walker's failure to include the tax map designation in the production of the survey plats of the William H. Halsey property is a violation of 18 VAC 10-20-370 C 2 k of the Board's 1999 regulations A monetary penalty of \$250 is recommended for this violation

Count IX: Recommendation that this aspect of the file be closed with a finding of no violation, as Mr Walker stated during the Informal Fact-Finding Conference that the deed plot was only an illustrative sketch to be used as a part of an auction brochure

Mr McAden further moved to recommend that Mr Walker's collective failure to comply with the foregoing regulations warrants verification to the Board of his competence to prepare a proper survey and that Mr Walker make a presentation to the Board to verify his competence in accordance with 18 VAC 10-20-790 B of the Board's 1999 regulations, for which his failure to do so may be grounds for suspension of his license, and, amend the title page of the transcript to include the correct Board name Mr Elkin seconded the motion which was unanimously approved by members Elkin and McAden As the presiding Board member at the Informal Fact-Finding Conference, Mr Allen was not present during the discussion or vote

The Section members discussed various issues related to application review First, the Section members were provided with copies of the two letters that are sent to applicants notifying them of having received a passing score on the Fundamentals of Land Surveying (FLS) examination The first letter notifies the applicant of their passing grade, and the second letter reiterates that they passed the examination and tells them what

**Discussion of
Application Processing**

additional information needs to be submitted in order to qualify for the Principles and Practice of Land Surveying examination. After discussion, the Section members agreed by consensus to eliminate the second letter and modify the first letter. Further, the Section members directed staff to provide them with a copy of the modified letter once the changes are made.

The Section members also discussed information on the examination information form provided by the examination vendor, Professional Credential Services, Inc. (PCS). Mr. McAden indicated that the deadline to submit disability accommodation requests to PCS may be before all applicants are notified that they are approved to sit for the examination. Ms. Sweet was called to speak with the Section members regarding this issue.

The Section members discussed applications that have recently been received from comity applicants who have not taken the FLS examination in any state, but were licensed in other states through alternate requirements. The Section members agreed by consensus that these applicants do not meet the requirements for licensure as a land surveyor because having passed the FLS examination is one of the requirements for licensure in Virginia. The Section members indicated that the application did not need to be amended because it clearly states that verification of the FLS examination is required to be submitted with the application.

Ms. Sweet arrived to discuss the examination information form from PCS in regards to disability accommodation deadlines. Ms. Sweet stated that she would discuss the issue with PCS and report back to the Section members. In addition, Mr. Elkin asked Ms. Sweet to see if item writers at examination workshops can be given continuing education credits from PCS for their participation in the examination workshops.

The Section members also discussed the acceptance of old applications. The Section members agreed by consensus that, with the exception of the experience verification forms, older applications could be accepted provided all of the required questions concerning convictions and disciplinary actions are on the form. The experience verification form must be current as some of the information has recently changed. Additionally, Mr. Allen provided several changes that he would like made to the experience verification form.

Ms. O'Neal discussed § 54.1-307.1 of the Code of Virginia as it pertains to the statute of limitations. Ms. O'Neal discussed recent cases that were impacted by the Office of the Attorney General's advice relating to this

**Discussion Regarding
§ 54.1-307.1**

statute

The Section members reviewed the updated Virginia Surveyor Apprenticeship Program as provided by John Simmers, Surveyor Apprenticeship Coordinator with the Virginia Department of Transportation (VDOT). Mr. Simmers also provided a summary of the changes made to the program. After discussion, Mr. Elkin moved to recommend to the Board that the VDOT Virginia Surveyor Apprenticeship program be approved as amended. Mr. McAden seconded the motion which was unanimously approved by members Allen, Elkin, and McAden.

**Discussion of VDOT
Virginia Surveyor
Apprenticeship
Program**

The Section members were provided with data regarding the pass rates for FLS candidates. The data provided information regarding pass rates among candidates with various educational backgrounds. The information was provided at the request of the Section members in order to consider the possibility of eliminating 18 VAC 10-20-300.6 from the regulations, which would no longer allow candidates with only a high school diploma and experience to take the examination. After discussion, the Section members stated that, in their opinion, the information was inconclusive. Further, the Section members agreed by consensus to direct staff to compile disciplinary information for those who were licensed within the last ten years and information regarding their educational background.

**Discussion of Pass
Rates for FLS
Candidates Applying
Pursuant to 18 VAC
10-20-300.6**

The Board members discussed a memorandum from Mr. Courtney regarding questions that have arisen pertaining to regulants who have received permission to modify drawings of another professional and whether the regulants who are making the modifications are to take responsibility for the entire drawing or only the modified portion of the drawing. Ms. Brooks stated that this issue was originally discussed at the APELSCIDLA Board meeting on December 11, 2002, however, the Board asked that each Section review the letter so that a consensus could be reached for the APELSCIDLA Board meeting scheduled for March 12, 2003. Ms. Brooks also informed the Section members that this issue has been reviewed by the Architects Section, the Professional Engineers Section, and the Landscape Architects Section and provided the Section members with a synopsis of their comments. After discussion, the Section members agreed that the level of responsibility depends on the written consent between the parties, and that the level of responsibility needs to be made clear in the contract.

**Discussion Regarding
Regulation 18 VAC
10-20-740.D and E**

The Section members also discussed a letter from Mr. Abernathy of the VSAIA regarding businesses performing non-certified services, as well as a draft response to Mr. Abernathy's letter. Ms. Brooks stated that this issue was originally discussed at the APELSCIDLA Board meeting on December

**Letter Regarding
Businesses Performing
Non-Certified Services**

11, 2002, however, the Board asked that each Section review the letters so that a consensus could be reached for the APELSCIDLA Board meeting scheduled for March 12, 2003. By consensus, the Section members agreed with the contents of the letter after the removal of the two sentences referring to incidental work.

The Section members reviewed the draft regulations prepared by the Regulatory Review Committee. Ms. Brooks and Ms. Henshaw apprised the Section members of several of the major changes to the regulations being considered. After reviewing various parts of the draft regulations, the Section members agreed by consensus to review the draft in further detail in order to provide additional comments at their next Section meeting.

**Review Draft
Regulations Prepared
by Regulatory Review
Committee**

Ms. Sweet informed the Section members that she spoke with a representative at PCS regarding some of their earlier questions. Ms. Sweet indicated that PCS would be willing to grant continuing education credits to those who participated in the examination workshops. Additionally, Ms. Sweet stated that PCS will look into changing the deadline for disability accommodation requests in order to ensure that all applicants approved for the examination have an opportunity to request any necessary accommodations.

**Discussion Regarding
Examination Issues**

Ms. Brooks discussed Senate Bill 879 regarding the registration of professional business entities. Ms. Brooks indicated that the Department was initially concerned with the language contained in the bill, however, the bill has since been amended and appears to be agreeable to the Department.

Other Business

Ms. Brooks also discussed a resource guide that is being prepared by staff for use by building officials, the public, and regulants. The resource guide will provide users with general information relevant to the professions regulated by the Board.

The Section members were provided with a memorandum from the National Council of Examiners for Engineering and Surveying (NCEES) regarding committee assignments for the 2002-2003 administrative year.

The Section members were also provided with a memorandum regarding the Registration Boards Forum hosted by the National Society of Professional Engineers held in conjunction with the annual meeting of the American Congress on Surveying and Mapping. Mr. Allen requested that staff members check on funding for this event.

The Section members were informed that Wilmer (Bill) Sirine's nomination was submitted to NCEES for consideration for the Distinguished Service Award

The Section members stated that they would like to incorporate minimum standards for topographic surveys into the regulations during the next regulatory review process

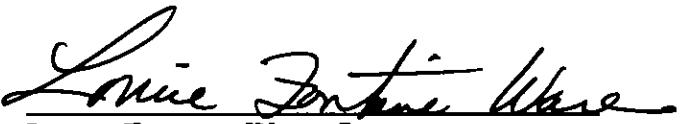
Conflict of Interest forms were completed by all members present.

Conflict of Interest
Forms

There being no further business, the meeting was adjourned at 12 35 p m

Adjourn


Doyle B. Allen, Chair


Louise Fontaine Ware, Secretary

COPY TESTE

Custodian of Records